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THE
ENDOWED SCHOOL COMMISSION
AND ELEMENTARY SCHOOL
ENDOWMENTS.

A CORRESPONDENCE

BETWEEN

THE REV. G. H. FAGAN,

PREBENDARY OF WELLS,

Honorary Secretary of the Bath and Wells Diocesan Board of Education,

AND THE

ENDOWED SCHOOLS COMMISSIONERS.

1871.

This Correspondence is printed mainly with the view of informing the Managers of Elementary Church Schools that, if they are in the receipt of aid from Government Grants, the Endowments of their Schools will not be under the control of the Endowed Schools Commissioners, and may continue applicable to the ordinary expenses of such Schools. There are also other points discussed which, it is considered, are well deserving the careful attention of Churchmen and those interested in School Endowments.

Paper S is appended for facility of reference.

G. H. F.

September 6, 1871.

CORRESPONDENCE, &c.

I.

RODNEY STOKE RECTORY, WESTON-SUPER-MARE.
June 29th, 1871.

Sir,

I have the honour to request that you will bring under the Notice of the Endowed School Commissioners, the annexed resolution of the Bath and Wells Diocesan Board of Education, which was passed at a Meeting, held June 27, 1871.

I have the honour to be, Sir,

Your obedient Servant,

GEORGE H. FAGAN.

Honorary Secretary, Bath and Wells Diocesan Board of Education.
The Secretary, Endowed Schools Commission,
Victoria Street, London.

RESOLUTION, — JUNE 27, 1871.

"That this Board having had its attention called to a paper drawn up under authority of the Endowed Schools Commissioners, containing suggestions for the application of Endowments now attached, or hitherto applied under Trust Deeds, to the ordinary expenses of Elementary Schools, to the purposes of Secondary or Middle Class Education, protests against this scheme as being unjust and in contradiction to the spirit and to the provisions both of the Endowed Schools Bill and of the Elementary Education Act."

II.

ENDOWED SCHOOLS COMMISSION, 2, VICTORIA ST., S. W.
5th July, 1871.

Rev'd. Sir,

I have to acknowledge the receipt of your letter of the 29th ult. enclosing a copy of a resolution of the Bath and Wells Diocesan Board of Education. The suggestions referred to, and in the resolution called a scheme, are doubtless those expressed in a paper which, for the greater convenience of correspondence and reference, has been printed and marked S. Paper S contains some reasoning and some conclusions which have been found applicable to a number of actual cases, but which do not form a Scheme until applied to a particular case. The Diocesan Board do not say that they have had their attention called to any particular case in which the reasoning of Paper S has been so applied as to produce injustice or results contradictory of the legislation of the last two years. It rather appears that they think the whole principle of the paper to be faulty in these respects.

2. That the subject is one of much difficulty, and has so been felt by the Endowed Schools Commissioners, is apparent on the face of Paper S itself. It is one on which they will gladly avail themselves of the knowledge and experience possessed by local educational bodies. And if the Diocesan Board will be kind enough to point out, with reference to particular cases, or even in general terms, in what way the principles of Paper S work injustice, what is the spirit, and what are the provisions of either the Endowed Schools Act, 1869, or the Elementary Education Act, 1870, which are contravened, what arrangements would be more just, how the spirit and provisions of the two Acts in question can be more faithfully observed, they will throw light on a problem of much obscurity and confer a benefit on the Endowed Schools Commissioners, and through them on the public at large. In particular the Commissioners would draw your attention to the importance of explaining on what grounds the Board assumes, as the terms of the Resolution appear to assume, the identity of Secondary Education and Middle Class Education.

I am, Rev'd. Sir, Your obedient Servant,

H. J. ROBY.

Rev. G. H. FAGAN.

III.

RODNEY STOKE RECTORY, WESTON-SUPER-MARE,
July 12, 1871.

Sir

I have to acknowledge the receipt of your letter of July 5, remarking on a Resolution which the Bath and Wells Board of Education had felt it its duty to pass upon Paper S, issued by the Endowed Schools Commissioners, on the

subject of Endowments at present applied to the ordinary expenses of Elementary Schools.

I beg, through you, to thank the Commissioners, in the name of the Diocesan Board, for the courtesy of their reply, and the kind way in which they express themselves desirous to be put in full possession of those views of the Board which prompted the Resolution in question, as well as of any suggestion or information which might tend to elucidate the general subject.

The Board does not meet again till the end of September; and personally, I should prefer to defer my reply till after such Meeting. But it may seem more courteous to the Commissioners, and more due to them, considering the terms in which the Resolution is couched, that a reply to their letter should not be delayed so long. I will therefore, as I am acquainted with the main grounds upon which the Resolution was carried, take the liberty of replying at once: though I must beg the Commissioners, under the circumstances, to make me alone answerable for any statements or arguments that may go beyond the terms of the Resolution agreed to by the Board.

The Commissioners are correct in supposing that the Board was of opinion that the whole principle of the paper was faulty and liable to the charge of injustice, and a contravention of the two Acts in question.

That principle I conceive to be as follows.—

That since the passing of the Elementary Education Act in 1870, compulsory provision for maintenance by School Rate, legally assured, has been provided for every parish in England.

That by consequence, the circumstances under which the Endowed Schools Act was passed, have changed.

That endowments hitherto used in paying the "Ordinary Expenses" of the Primary Schools of the country ought, as a general rule, no longer to be applied to the ordinary maintenance of our Parish Schools. The Commissioners consider that now that "the legal provision has been made complete in amount" this argument "acquires almost irresistible force".

That if Endowment is applied to the ordinary expenses, it will simply relieve other sources of revenue, such as School Fees, Parliamentary Grants, Subscriptions and Rates: to do which, the Commissioners consider most objectionable.

Therefore they deem that the permanent application of the existing endowments, applied to the ordinary expenses of our Primary Schools, should be in favor of Secondary Education, and at any rate, whatsoever improvements of such Schools they may be devoted to, they ought to cease henceforth to assist their "ordinary expenses" or what is called their maintenance, inasmuch as Paper S contends "that the surrounding circumstances have changed" by the passing of the Elementary Education Act of 1870, subsequently to the Endowed Schools Act of 1869.

Now it is to the correctness of such a view and the justice of such a principle that we beg leave most emphatically to demur.

The Elementary Education Act, we maintain, was not passed to make the legal provision for school-rate binding on every parish in England, so as to give any pretext for transferring existing endowments, at present applicable to the ordinary expenses of Elementary Schools, from such proper and legitimate object. On the contrary, the Act, (Clause V) expressly provides that *in those cases only, "where efficient and suitable provision is not otherwise made, and where there is an insufficient amount of such accommodation, in this Act referred to as a public school accommodation"* the deficiency shall be supplied in the manner provided by the "Act". Moreover the manner of supplying such deficiency provided by the Act, studiously and most carefully ensures that every opportunity shall be given by existing means, such as voluntary subscriptions, endowments, &c., to the supply of the deficiency without recourse to legal provision.

To argue therefore as Paper S does, that because legal provision for Elementary Education is secure to every parish, it is not only permissible but a duty to forbid endowments to be applied to the ordinary expenses of our Parochial Schools, we hold to be in opposition to the spirit and provisions of both the Acts referred to.

It is true that paragraph 9 suggests an alternative application of Endowments now applied to the ordinary expenses of Elementary Education, should they be hereafter, under the Endowed School Act, withdrawn from such application. In regard to this, I have only to remark that many of the proposed items of application suggested in paragraph 9 are either wholly inapplicable to, or impracticable in the case of, ordinary elementary schools and that moreover the withdrawal of such Endowments from application to the ordinary expense of the School, would at

once compel such school, (most unjustly as we venture to think) to become a School Board supported by Rate.

I think the Commissioners will agree with me that, till it is made evident how far the Diocesan Board and the Commissioners really differ or agree on the above questions of principle, it will be useless to go into the details (especially till the Board itself shall be able to go into them) upon which the Commissioners are good enough so courteously to invite its opinion and assistance.

But as the Commissioners seem desirous to be informed on such points, it seems only due to them that I should say, that with reference to their action in this matter, the minds of very many members of the Church of England in this part of the country have been disturbed by the action of the Commissioners in the matter of Dr. Morgan's school at Bridgwater, which appears to them to indicate an intention on the part of the Board, to transfer to Middle-class education the endowments which have hitherto been enjoyed by Church Elementary schools.

In the case of Dr. Morgan's school, the best existing Primary Church of England School is to be converted into a third grade school, leaving the Church of England unprovided with any substitute except a Board School.

In many such cases the supplanting of such Schools by "unsectarian" Rate schools will be necessitated, and a printed letter to a Manager of a Church School, of which I annex a copy, from the Committee of Privy Council, referring to the coming action of the Commissioners, which was read at the meeting of the Board, by no means tends to allay such alarms.

"It appears from the Memorial (No. 2), that the promoters of this School rely in part for its maintenance upon grants from an endowment. This endowment which is not attached to the School, will come under review of the Commissioners appointed by the Endowed Schools Act of 1869, and the future method of its application will depend upon the scheme made by those Commissioners under their Act. The promoters have, therefore, no sure ground for expecting that the Managers of the School will hereafter be able to derive any assistance from the endowment, and before My Lords proceed with the case they will be glad to receive an assurance that whatever may be the nature of the scheme for the application of the endowment in question the School is likely to be maintained in efficiency."

I beg also to call the attention of the Commissioners to the accompanying extract from a speech of the Lord Bishop of London, reported to have been delivered at the annual meeting of the National Society, held June 22nd, 1871.

"They were told by a paper now in circulation that it was intended to take away all endowments for the common education of the primary schools and only to allow such endowment to go to the superfluities of a higher class of schools and that they were not to be applied to the maintenance of the poorer schools. Now the possibility of those schools being maintained, did often depend upon those endowments, and if they were taken away, and the responsibility of maintaining those schools were left in the care of a few farmers, these schools would be ruined altogether and they would soon be driven into the hands of the School Board."

This extract will serve to show that in other well informed and unprejudiced quarters, a similar view to that taken by the Bath and Wells Diocesan Board has been adopted, a view which is reported to have led a high legal authority in the House of Lords, in a recent debate, to use these words.—"I object entirely to the use which the Endowed Schools Commissioners are making of the Elementary Act of last year."

As to the explanation which the Commissioners deem it important should be given of the grounds upon which the Resolution assumes the identity of "Secondary" and "Middle class" education, it seems—inasmuch as "Primary Education" is, by the Commissioners themselves, used of Elementary Education for the children of the labouring classes, no unreasonable interpretation to assign to their use of the term "Secondary Education" the meaning of Education for the benefit of the children "of the Middle Classes", more especially as paper S speaks of such "Secondary Education" as having hitherto received no assistance on the part of Parliament or of voluntary agencies". If however the Commissioners desire that that term should be applied (in a way which seems scarcely compatible with the argument in paragraph 4) to such improvements, sketched out in Paper S, as might be available in a school for both the classes of children, I have only to remark that, in point of fact, the benefit of them would, practically, be almost entirely reaped by the children of the Middle Classes.

I beg, in conclusion, to assure the Commissioners, through you, that if it

should appear that the Board has, after all, misunderstood the general principles upon which paper S has been written, and that there is a substantial agreement between the Board and the Commissioners, on the points I have brought forward, it will give me the greatest satisfaction to convey to it, as I am sure it will give the Board the greatest pleasure to receive such assurance, and to give publicity to any explanation with which the Commissioners may favour us.

I have the honour to be, Sir, your obedient servant,

GEORGE H. FAGAN.

H. J. ROBY, Esq., &c., &c.

IV.

ENDOWED SCHOOLS COMMISSION, 2, VICTORIA ST., S.W.

4th August, 1871.

Rev. Sir,

Your letter of the 12th ult. has now been carefully considered by the Commissioners, who direct me to express their thanks for the trouble you have taken, and their desire to place before the Bath and Wells Diocesan Board of Education, what they conceive to be, the true aspect of the case. They cannot indeed flatter themselves that there is a substantial agreement between themselves and the Board, though they venture to think that the Board has partly misunderstood both the principles on which Paper S. proceeds, and the range of its aims. And they consider it due to gentlemen, occupying the position of the Board, to endeavour, through you, to modify their impressions on these points, and trust that thus a substantial agreement may eventually be brought about.

2—The Commissioners do not object to your statement of their principles, as far as it goes. But it is imperfect in omitting the cardinal point of all : viz.—the duty laid upon the Commissioners in the terms of the Act, to make Endowments as conducive as they can be made, to the advancement of the education of boys and girls.

3—This obligation, laid on the Commissioners, would probably have made it necessary for them, if the Elementary Education Act had not been passed, to lay down the principle that Endowments cannot as a rule advantageously be used to defray the ordinary expenses of an Elementary School, for it is certainly not most conducive to education to apply funds to objects which can be provided for from other sources. It is shown in Paper S that the passing of the Elementary Education Act has greatly strengthened the position, because there is now not only ample legal provision for Elementary Education, but that provision is associated with a system which secures by various checks and guarantees the efficiency of the Schools. To reserve Endowments therefore for ordinary expenses is not only to relieve other sources of supply, but to do so at the risk of injury to the Schools through the removal of important tests of efficiency and incentives to exertion.

4—If you will again look at Paper S, you will see that this view is the very foundation of it, and that the principal objection to applying permanent endowment to ordinary expenditure, is not simply because other resources will thereby be eased, but lest the Schools should thereby be injured. The changes effected by the Elementary Education Act, and the Code of 1871, are mentioned to show how reasoning that was strong before is stronger now, but are nowhere made the foundation of the positions assumed.

5—The Commissioners must particularly request the Board to observe, in this and in every part of the question, that as Public Officers they are bound to recognize the law as they find it, as adequate and satisfactory for its purposes. It is not from any fancy of their own, but on the principle just stated, that they assume the provisions of the Elementary Education Act as those by which the legislature desires that Primary Education shall be regulated.

6—It is doubtless owing to this oversight, as it appears to the Commissioners, that your letter does not contain anything, clearly, to explain that part of the Endowed Schools Act, but leaves the Commissioners in doubt, as they were before, by what means the Bath Board consider that the spirit and provisions of that Act can be more faithfully observed.

7—With respect to the Elementary Education Act, you rest your opinion on a reading of that Act which the Commissioners cannot follow. You say that “the manner of supplying such deficiency provided by the Act studiously and most carefully ensures that every opportunity shall be given by existing means, such as voluntary subscriptions, endowments, &c., to the supply of the deficiency without recourse to legal provisions”. Now unless the Commissioners mistake, Endowments are only mentioned twice in the Act. By Section 23, certain Endowments

may under divers restrictions, and with the consent of the Education Department, be transferred to School Boards, to be treated by them as part of their ordinary resources. And Section 75 provides that some small Endowments, excepted from the Endowed Schools Act 1869, may be the subject of schemes by that department. The Code of 1871 is silent about Endowments. To the understanding of the Commissioners such provisions, so far from indicating an intention to treat Endowments as *ejusdem generis*, with other supplies of funds, show an intention to place them on a different and very special footing.

8—The 5th section, to which you appear to refer, contains no such enumeration of resources as you suggest. The word "otherwise" is general, and must be construed in the light of other provisions bearing on the question. And here the Commissioners must request the Board's candid consideration of the force of this word in this place. The construction put by the Board upon it, would carry this consequence, that the Elementary Education Act intended, by this single expression, to secure for ever for Primary Schools which happen to have the advantage of an Endowment the benefit of that Endowment, and this notwithstanding the enactment passed only one year previously, placing all such Endowments (with some specified exceptions) under the control of the Endowed Schools Commissioners to be applied as might be most conducive to Education generally. The Commissioners believe that Parliament never intended so to restrain their action, but that it is still their duty to deal with these Endowments as with others, for the purposes indicated by the Endowed Schools Act.

9—The Commissioners have already dealt with some Endowments previously applied to the ordinary purposes of primary Schools on the principles to which the Board object. Had time allowed, in the interval between the passing of the two Acts, a large number of such cases might have been disposed of. And then this consequence would have followed from the construction contended for by the Board, that by the force of the Elementary Education Act, an accidental number of endowments would have been withdrawn from the powers of this Commission while others just similarly circumstanced would have remained liable to them.

10—The letter of the Education Department, from which you quote a passage, appears to have no bearing on the present question, for it evidently relates to some endowment not attached to the School, whose managers were making the application: and merely requires an assurance as to the stability of that particular School. If, however, it had any such bearing as you assume, it would seem to indicate the impression of the Education Department that Endowment ought not to be relied on for ordinary expenditure. That such was the intention of the most active promoters of the Endowed Schools and Elementary Education Acts is certain. And if a contrary construction were placed on the Acts, it would cause much disappointment. I say this, not because it can influence in any degree the true construction of the Acts (which must be taken as they stand, and not as any individual may have meant or wished them to stand) but because your letter intimates surprise and alarm at foreseen and intended consequences.

11—The foregoing remarks apply to so much of the resolution of your letter, as alleges a violation of the spirit and provision of the two Acts. I pass now to the allegation of injustice. Here it is satisfactory to find that no actual instance of injustice has been brought under the notice of the Board; for the only case you cite, that of Dr. Morgan's School, is outside the range of Paper S altogether. But you argue that there must be injustice on the following general grounds, which I quote at length because your letter is not divided into paragraphs, and I have difficulty in otherwise specifying a particular passage. You write as follows—"It is true that paragraph 9 suggests an alternative application of Endowments now applied to the ordinary expenses of Elementary Education should they be hereafter, under the Endowed Schools Act, withdrawn from such application. In regard to this I have only to remark that many of the proposed items of application, suggested in paragraph 9, are either wholly inapplicable to, or impracticable in the case of, ordinary Elementary Schools, and that moreover the withdrawal of such Endowments from application to the ordinary expense of the School, would at once compel such school (most unjustly, as we venture to think) to become a Board School supported by rate."

12—On this passage the Commissioners make four observations. First, if many of the objects suggested in paragraphs 9 and 10 of Paper S are inapplicable to particular cases, others are applicable; and it is impossible to conceive cases to which some are not applicable. And the very reason for naming many objects, is to give a large discretion to managers, and so to secure originality and variety of type. Secondly, the list does not profess to be

exhaustive; and whenever other apt methods are proposed, they may be adopted. Thirdly, the withdrawal of Endowments from the support of ordinary expenditure does not necessitate a School Board. It only puts the place on a like footing with its neighbours (from whom it is only accidentally separated by having an Endowment) as regards ordinary expenditure, whilst giving it from the Endowment, the advantage of good buildings and equipments and of a greater quantity and finer quality of Education. Fourthly, the Commissioners have been most careful to warn every reader of Paper S that the conclusions, there expressed, are general and not universal, and that every case must be considered on its own circumstances; and therefore any particulars tending to prove injustice against any scheme proposed by them may be brought forward and will certainly receive most careful attention.

13—The Commissioners hardly know to what details you refer as being useless to go into, but when injustice is charged, the first question that occurs to any one to ask is, who is the person injured? The Commissioners do not find any clear answer to this. From your observations, cited in the last paragraph, it would seem that the persons (not injured, for no case is mentioned, but,) about to be injured, are (not the poor, for whom the Endowments are designed, but) the landowners, on whom rates may fall. But from the sequel of your letter, it would seem that the Bath and Wells Board apprehended injury to the Church, and that on account of the case of Morgan's School at Bridgwater.

14—It is your mention of this case as the ground of objection to Paper S that leads the Commissioners to say that the Board have mistaken the range, as well as the principles of that paper, which is confined to the discussion of cases involving the application of Endowments to Elementary Schools. The case of Morgan's School is of a different kind. Morgan's Foundation was for education *not elementary*, but of a distinctly higher kind. The scheme establishes a third grade school which, as the Commissioners believed and still believe, is the kind of School most in accordance both with the interests of the place, and with the objects of the Foundation. Moreover, the scheme was designed and published last summer before the Elementary Education Act was passed, and before the numerous applications which made it convenient to frame such a paper as Paper S, were thought of.

15—Indeed if the case had anything to do with Paper S, it is impossible to allege that it works injustice to either of the two classes for whom the Board is anxious. It so happens that the Commissioners, at the instance of the Trustees, were willing to assign the site and buildings to Elementary Education if the ratepayers of Bridgwater wished it, but the Corporation being the elected representatives of the ratepayers came forward and repudiated any such wish. The ratepayers therefore, if their representatives may be trusted, have not been injured. And as regards the Church, the Endowment remains as much attached to it as before, except so far as the Endowed Schools Act compels the introduction into every Scheme of provisions affecting the exclusiveness of all denominational endowments; on which point the Commissioners simply obey the positive injunctions of the Law.

16—The Commissioners indeed cannot but express some surprise that the case of Dr. Morgan's School is alleged as one of injury to the Church. Had the School not been a denominational one, under the Endowed Schools Act, the charge would have been at least intelligible. As it is, while the Church is at no special disadvantage at Bridgwater as regards Elementary Education, the Scheme establishes a distinctively Church of England School, for the benefit of those who so much require Education, just beyond the Elementary. In your letter, while speaking of the transfer of a school *from* Church Elementary Education you fail to apply the character of *Church* Education to that to which it is transferred. The Conscience Clause is equally required in either case.

17—It is true that the Trustees have made much complaint of the action of the Commissioners in the Bridgwater case, and have more than once demanded what would have involved a direct and clear violation of the Law to meet their own wishes. The Commissioners trust that the Board will rather form their views of this case upon a study of the Endowed Schools Act and other authentic documents than upon the Report of gentlemen who dislike the change effected by the Law itself, and speak of it as something due to an exercise of discretion on the part of the Commissioners.

18—The relation of Educational Endowments to the Church is a matter with which the Endowed Schools Commissioners necessarily have to deal. But the way in which they must deal with it, is very distinctly prescribed for them in the Act from which their powers are derived. If any Endowment is entitled to the

exemption given under section 19 of the Endowed Schools Act the Commissioners are forbidden, without the assent of the Trustees, to meddle with its religious character, beyond the introduction of a Conscience Clause. And in this respect the result is the same, whether the Endowment is applied to primary or to secondary education. If the Endowment is one to which section 19 does not refer it must be treated as undenominational, and hence there can be no pretence of injustice to the Church particularly, whatever use be made of such Endowment.

19—There are, it is true, many Endowed Elementary Schools at present conducted as distinctively Church of England Schools, which when they come to be made the subjects of Scheme are found not legally to possess that character : but this simply results from the operation of positive Law, and cannot be called unjust unless it is maintained that the Law itself is tainted with injustice. The Commissioners at all events, have no option but to administer it as it stands.

20—But the more immediate point on the present occasion, is not to defend the Scheme for Morgan's School, but to show how the Bath and Wells Board has misconceived, as the Commissioners hold, the object of Paper S. They have treated it as dealing with two classes of considerations with which it has nothing whatever to do. It does not deal with the question whether or no an endowment ought to be applied to Third Grade School or to Middle Class Education. Nor does it deal with the question how an endowment is to be treated according as it falls within section 19 of the Endowed Schools Act or otherwise. It indicates that there are such questions, but it enters into neither.

21—The remarks you quote, as having been made in the National Society and in the House of Lords, require specific application and explanation quite as much as the resolution of the Bath and Wells Board. The words "the use the Commissioners are making of the Elementary Education Act" are inaccurate, and probably misreported. The Commissioners are not making use of that Act, beyond this, that it seems to them to make clearer their duty to pursue a course which even without it would have been the right one.

22—Nor can they admit, as indeed they have already intimated, the correctness of the view attributed to the Bishop of London. The suggestions of Paper S do not relate to a "higher class of Schools", nor can the Commissioners understand how the withdrawal of the exceptional advantage of endowments can tend to ruin Schools such as are elsewhere maintained without them.

23—It only remains to observe on the confusion between Primary and Secondary Education on the one hand, and Education for the Poor, and for the Middle Class on the other. It is by no means an uncommon or an unnatural one, but when it occurs it should be pointed out. Primary or Elementary Education is the same thing, whether it is given to one class or another, and so is Secondary Education. The variance is in the kind of instruction, not in the person receiving it. If the Commissioners have on any occasion, spoken of Primary or Elementary Education as something confined to the labouring classes (of which they are not aware) they have fallen themselves into the error they are now trying to correct. It is true that, the richer people are, the higher will be the grade of Education they will, as a rule, seek for their children ; but it is a mistake to suppose that Secondary Education may not most properly be offered, where it is possible, to the poorer classes, or that the spirit and provisions of the Endowed Schools Act can be faithfully observed unless this is done to a substantial extent. To put a liberal education within the reach of all classes, is the most prominent object on the face of that Act, and indeed is by it ascribed to Founders, as their main design.

24—If you will be good enough to convey to your Board the foregoing explanations, the Commissioners trust that the misapprehensions which your letter appears to them to disclose, and with them all feelings of alarm, will on further reflection be removed. A dispassionate study of the case of Dr. Morgan's School, will surely allay the disturbance which is said to have affected many minds, and will show that there is no ground for ascribing to the Commissioners "an intention to transfer to Middle Class Education, the Endowments which have hitherto been enjoyed by Church Elementary Schools". Your Board may do excellent service to the Public, by dispelling incorrect and confused ideas, by shewing that Education may be raised in level without being shifted from one class to another, that Church Schools remain Church Schools equally whether they give Elementary Education or Secondary, and whether they are designed for richer classes or for poorer, that the Commissioners only insert conscience clauses in strict obedience to the Law ; and that a Legal tribunal is open to all who think they are wronged in this matter.

25—With regard to the publication of this correspondence, of which you express yourself desirous, the Commissioners beg to thank you for your courtesy in waiting for their consent ; but they must leave you to act in such way as you think best for the

interests of the public. Their letters are not written for the public eye, but only for that of their correspondents, and with the single view of promoting a better understanding of whatever subjects may be under discussion. At the same time they bear no private character, and if their recipients think it more useful to publish them, they are justified in doing so.

The Rev. G. H. FAGAN.

I am, Rev. Sir, Your obedient Servant,

H. J. ROBY.

V.

RODNEY STOKE RECTORY, WESTON-SUPER-MARE,
August 12, 1871.

Sir,

1—I am glad to find from your letter of August 4, that the Commissioners, in the main, accept as fair, my statement of the general principle upon which Paper S is founded, and against which the Resolution of the Bath and Wells Board was directed; altho' they consider it to be imperfect in "omitting the cardinal duty laid upon the Commissioners to make endowments as conducive as they can be made to the advancement of the education of boys and girls."

2—I presume that the terms "can be made" will be allowed by the Commissioners to cover the statement that they are bound to consider the original designs and intentions of the Founder, and the interests of the place which, as well as of all the persons whom, he specially purposed to benefit, without which purpose on his part, the Endowment would never have been left at all.

And if so, I venture to think, additional weight is given to the reply which I would make to your remark that I did not in my letter of July 15th, bring any proof that Paper S is opposed to the spirit and provisions of the Endowed Schools Act as well as of the Elementary Education. The justification of that assertion of the Board, I would rest on the terms of the Preamble of the Act, which specially recites the "carrying out of the main designs of the Founders" as one of its chief objects, and also on Clause 8, 3, of that Act which excepts from the operations of the Act and of the Commissioners "Any school which at the commencement of this Act, is in receipt of an Annual Grant out of any sum of money appropriated by Parliament to the Civil Service, entitled for Public Education in England, or to the Endowment thereof."

3—Now there are a large Number of Parochial Schools, whose ordinary resources at present consist of,—a small endowment, the Parliamentary Grant, the children's pence and it may be voluntary subscriptions—and this is the very class of Schools which the Board had specially in view when it drew up its Resolution. And I venture, with great submission, to suggest to the Endowed Schools Commissioners, that they are acting against the provisions of their own Act if they proceed to apply Paper S (which makes no limitations and exceptions) to this very numerous class of schools. If they can assure the Board that they accept this view, I am sure it will be much relieved to hear it, although we should still be anxious for the case of the smaller number of schools which may enjoy endowments, but may not be aided out of the Privy Council Grant. It is true that this class of schools, with small endowments, is referred to in Clause 75, of the Elementary Act and provision made for the governing body to submit schemes—but such schemes are not to be submitted to the Endowed Schools Commissioners, but to "the Education Department".

4—I deeply regret to observe that the Commissioners announce that their principle of action is that the term "otherwise" employed in the 6th section of the Elementary Education Act, does not cover the case, and was not intended to do so, of the support of schools by means of small local endowments, as well as by Voluntary Subscriptions. For if this view is persisted in, and when the Act does not except endowments as a means of supporting Non-Board Schools, the Commissioners assert that it does, and that they mean to act on that interpretation, I am persuaded there will be a general feeling of opposition to this rendering of the Act, in the minds of all the friends of Voluntary Schools and of distinctive religious teaching in the same.

5—Your letter puts the issue very clearly and pointedly in Paragraphs 9, 10, that under the Elementary Education Act "Endowments might not be relied on for ordinary Expenditure of Schools".

It is not for me to enter into a legal argument upon the grounds on which you except endowments from the term "otherwise" where the Act does not do so. I will confine myself to the expression of a most decided conviction, (as you speak of the intention of the promoters of the Bill,) that neither Parliament nor the Country would have allowed a Bill to pass which forbade the application of local endowments to the ordinary maintenance of Parochial schools for the Poor. And I apprehend you will find a general disposition to resist the application of such an interpretation of the Act, throughout the Country.

6—The question in its broad aspects (and it is in these that a Diocesan Board of Education naturally views them) comes to this. Should endowments be employed as nearly as possible according to the original mind of the Donor for the advantage of the particular place or parish which he designed to benefit, and without which design on his part, the endowment never would have been bequeathed at all to the public?

If a Founder designed that all classes of a given parish should be benefited not only religiously and intellectually, but also pecuniarily, by the existence of an endowment for a school for the poor, we conceive that it is "unjust" to that particular parish to deprive it of all or any of these advantages. Your letter asks "Who is the person injured?" The reply is—everyone who is needlessly deprived of such benefits; *the poor*, to whom a fixed and settled provision for the education (often specially the religious education, and on lower terms than they could otherwise procure it) of their children is taken away, and also *the other class of inhabitants*, who, in a very large number of cases, are in no sense "the rich" who have to bear a portion of the cost whether legal or voluntary, of providing education, not only for their own children, but for those of their poorer neighbours.

7—Nor will I omit the consideration which in many cases would far outbalance all others, that in the altered circumstances of Elementary Education the prohibition to assist the ordinary expenses of a school out of its Endowment would practically just make the difference between the substitution of a school of that religious character most desired by the Parents, for a creedless, possibly a merely secular, school, repugnant to their most sacred principles and feelings—a result which, in such instances, would hardly fall short of the character of religious persecution.

8—While I think it right to put this point strongly, you will not, I am sure, desire to draw the conclusion that the Board of Education, or any of its members, would wish to do otherwise than assist the Commissioners in the exercise of their legal power in any plan for making these endowments as beneficial as possible, so long as these main points and the local interests of the parish or area benefited, are consulted, as the Founder would have wished them to be. And this leads me specially to thank the Commissioners in the name of the Board for the explanations given in paragraph 18 and the repeated assurance in paragraph 12 from paper S "that every case must be considered on its circumstances, and therefore any particulars tending to prove "injustice against any scheme proposed by them may be brought forward, and will "certainly receive most careful attention."

9—The explanations which you are good enough to give us as to the manner in which the Commissioners justify their action in the matter of Dr. Morgan's School, Bridgwater, I will also take care to make known to the Board.

I have the honour to be, Sir, your obedient Servant,

G. H. FAGAN.

H. J. ROBY, Esq.

VI.

ENDOWED SCHOOLS COMMISSION, 2, VICTORIA STREET, S.W.,
20th August, 1871.

Rev. Sir,

The Endowed Schools Commissioners having now adjourned for the recess, it is impossible that the Board which you represent should at present receive an official reply to your letter of the 12th instant. The matter however is so important that I will take the liberty, as one of the Commissioners, to offer some remarks upon it, and I request that in case of the previous letters being published, this one may also appear. I cannot expect that the Board will delay such publication on account of the official action of the Commissioners being interrupted: but I hope it will be distinctly understood that I write as an individual though in my official character, and that the Commission as a body is not committed to my statements or arguments.

I doubt if the Board—and I may say the same of many other parties with whom we are brought into contact—duly consider that our duty is simply to administer a very precise Act of Parliament, and to pay regard to other express enactments of the Legislature when they concern our work. We cannot take account of consequences which may be apprehended as likely to follow in one direction, or in another, by this party or that.

Individually, indeed, I am free to repeat what I have already openly stated in Parliament, that I would not have engaged in the administration of the Act, if I had not believed, as I do believe, that by its proper operation, and by the free action of the people—without which I should not care for the result, nor do I conceive it would be really attained—the Church of England will on the whole derive much advantage from that operation. And that advantage may be indefinitely increased in proportion as the Church may increase or regain her influence over the population.

This however cannot be the object, or the direct effect, of the Endowed Schools Act or the Elementary Education Act. But as a public office we cannot be influenced by such a consideration. Individually, I regret the existence, in the latter Act, of the well-known provision about formularies. But officially, we could not separate that provision from the rest of the Act. We are bound to take the Act as a whole, as that system which the highest authority has decreed as that most fitted for the advancement of popular education in this country. In particular it is indisputably intended that it should regulate the operation of the law—I mean whether in any given district it is to be through the machinery of a School Board or not—according to the wishes of the people of that district, ascertained in the recognized manner. And I cannot but say that if, as you anticipate, in any case, “creedless or secular” Schools are introduced contrary to the wishes of the parents, outraging “their most sacred principles and feelings”, and inflicting on them “religious persecution”, the owners of property and others concerned in the charge of education will wholly neglect their duty, and increase a heavy responsibility. But this is outside our province.

I will now advert to your letter more in detail.

Nothing is more common than the imperfect reference to the terms of the preamble of the Endowed Schools Act, which I find in that letter. It is true that that preamble refers us as one of our chief guides and standards, to the “main designs of the founders”: but it does not stop there. It does not leave us, as was for so many years the rule in the Courts of Law, to ascertain those designs for ourselves. It defines them for us: it states them to be the “putting a liberal education within the reach of children of all classes”.

I am indeed prepared, as a School Inquiry Commissioner, to justify that definition on its merits, and in doing so to refer to the pages of the Schools Inquiry Report. But for our purpose this is plainly unnecessary. The Act is our master: and we conceive that under the words I have quoted it is our duty to apply it in a comprehensive manner, and on a general survey of the whole condition, needs, and resources of education throughout the community.

The exception in Section VIII. 3, to which you refer seems to me to tell in the same direction. Certain schools, presumed to be sufficiently dealt with by the law, are withdrawn from the large discretion entrusted to us as to Endowments generally—leaving still more manifest the existence and the significance of that discretion as to all others. A similar remark is obvious as to the effect of Section LXXV. of the Elementary Education Act, to which you refer.

The appeal to us which I understand you to make, that we should announce that we do not apply “Paper S” to the schools so excepted, was surely unnecessary. We are absolutely prohibited by the Act from touching (except in a few particular cases) those schools or their Endowments. Certainly we did not expressly say so in Paper S, as we assume knowledge of the law in our correspondents.

In the next place, I hope it will be observed that we do not rely on any legal or technical construction of the word “otherwise” in the V. Section of the Elementary Education Act. Our argument was at least a broad and intelligible one. We say that, until so instructed by superior authority, we cannot hold that large and carefully framed enactments in a statute, authorizing the application of certain funds in whatever way may appear the most advantageous to education generally, cannot have been intended by Parliament to be so restricted by another Statute on another subject, passed immediately after, and that constructively from a single word, as to confine for ever that application, in a large number of cases, to one particular way.

On your appeal to the sense of the country it is of course needless to dwell. Both the Board and ourselves must ultimately abide that issue, and we are content to do so.

Nor need I say more on the question “in its broad aspects” as it presents itself to you, than this, that you appear to assume the question at issue. We have not proposed to remove Endowments from the places where they exist: and we have maintained that as the general rule our proposals will be eventually the best calculated to benefit those places.

For the other points of the question, I have nothing to add to our previous letters.

I remain, Rev. Sir, your obedient Servant,

LYTTELTON.

Rev. G. H. FAGAN,

VII.

RODNEY STOKE RECTORY, WESTON-SUPER-MARE,

AUGUST 22nd, 1871.

My Lord,

I beg to acknowledge, with thanks, the receipt of your letter of the 20th instant. It shall be printed as you request with the rest of the correspondence.

I am sincerely grateful, as I am sure our Diocesan Board will be, for the assurance it contains that the Commissioners will, and do, hold the large class of Schools with small endowments which are aided by the Committee of Privy Council, to be excepted from the action of the Endowed School Commissioners, and consequently from the line of policy marked out in Paper S.

I must however be permitted to add, after a re-perusal of that Paper, that I conceive we

were justified in fearing that such schools were in the view of the Commissioners, by the apparent general tenor of the Paper, especially by the statements and arguments in Paragraphs 5 and 13, and that therefore I hope we shall not be deemed to have needlessly mooted the question.

I would beg very respectfully to suggest that should the Commissioners feel it in their power further to assure the public that they accept Section XI. of the Bill, which is as follows:—

“It shall be the duty of the Commissioners in every scheme which abolishes or
“modifies any privileges or educational advantages to which a particular class of persons
“are entitled, and that whether as inhabitants of a particular area or otherwise, to have
“due regard to the educational interests of such class of persons,”

as binding them to secure for Churchmen or the members of other religious bodies (according to the character of the Trust) those religious “privileges” and “advantages” for their children which Founders of Educational Endowments unquestionably meant to secure to them, and that they will be guided in their schemes by such a reasonable view of that Clause, they will do very much to allay the anxiety which has been very widely created as to the character and tendency of their proceedings in the exercise of the wide discretion entrusted to them by the Act.

I have the honour to be, my Lord,
Your very obedient Servant,

The Right Honourable

G. H. FAGAN.

The LORD LYTTTELTON.

ENDOWED SCHOOLS COMMISSION.

PAPER S.

1. A great number of small endowments, and some large ones, are used at the present moment in paying the ordinary expenses of the Primary Schools of the country. As questions respecting the permanent application of these endowments to Elementary Education frequently arise, it will be useful to state what general rules the Endowed Schools Commissioners are, after consideration of many individual cases, disposed to observe in dealing with them. It must, however, be remembered that this enunciation of general rules is not intended to save the labour of examining, as the Commissioners think they are bound to do, the circumstances of each case, and deciding accordingly. General rules are not universal ones. But after experience of many cases some rules may safely be deduced, and may usefully be notified to applicants as being probably applicable to their case, unless some exceptional character appears in it.

2. The position of this matter has been substantially altered by the passing of the Elementary Education Act, 1870, and the Code of 1871. Under the Endowed Schools Act, 1869, the Commissioners were bound to frame such schemes as would render endowments most conducive to the advancement of the education of boys or girls; and so they are still. But in order to find out what is most conducive they have to look at all the surrounding circumstances, and these have changed.

3. It is indeed true that, in the judgment of most Inspectors of Schools and other persons conversant with the subject, endowments have for a long time past been so managed as to be, in the great majority of cases, a drawback rather than a help to Elementary Education. But this might have been mended by more judicious administration, and as long as there was not full legal provision for Elementary Education, it is certain that many endowments could not be made more conducive to education generally than by being used for Elementary Education.

4. It is also true that for many years past Elementary Education has been the object of great attention and zealous exertions, both on the part of Parliament and of voluntary agencies, while Secondary Education has received no such assistance. This circumstance has frequently been dwelt upon as a reason why the Commissioners in making new Educational schemes should look to the promotion of Secondary rather than of Primary Education. But it was not a conclusive argument so long as the provision for Primary Education remained imperfect. Now that the legal provision has been made complete in amount, the argument acquires almost irresistible force. If endowments can be made conducive to education at all, it must be generally true that they will be most useful if applied to those educational purposes, for which money is wanted but is not forthcoming from other sources.

5. Nor is this all. The legal provision for Elementary Education, besides being sufficient in amount, is accompanied by a system of safeguards, of supervision, and of government, which is more likely to be impeded than assisted by being mixed up with another system resting upon separate endowments, each of which must be administered according to its own peculiar Trusts. If endowment is to be applied to the ordinary expenses, it will simply relieve some of the other sources of revenue. Those other sources are:—

- a. School fees.
- b. Parliamentary grant.
- c. Subscriptions.
- d. Rates.

Which of these shall endowments relieve? School fees are of great importance, because they keep up in the minds of parents the sense of obligation to have their children taught, and cause them to take a more vigilant interest in the Schools. To save the Parliamentary grant is to lose or impair the influence of Inspection; and Inspection is the best safeguard for efficiency. To relieve subscriptions is out of the question, for no one will contend that endowments were either intended or should now be used, to ease the rich. It may be that saving the rates would not hurt the Schools: but saving the rates is not the appropriate function of Educational Endowments; nor would it be easy to apply them in relieving this source of revenue without also relieving the others, or at least the Parliamentary grant.

6. A paper like the present, which is intended for information and not for controversy, must not be expected to contain anything approaching a full discussion of a subject involved in much complication and difficulty. But the above is a very brief summary of the main reasons which have led the Commissioners to their first conclusion, viz., that to use any substantial amount of endowment for the permanent discharge of the ordinary current expenses of an Elementary School, will, as a general rule, be more likely to injure education than to advance it.

7. But this conclusion by no means disposes of the question in any single case, for there are many other ways in which endowments can be made available in connexion with Elementary Schools without incurring the dangers above referred to. Many, indeed most, places are not furnished with the buildings and fittings which will be required under the existing law. Now, it can be no hindrance to the future excellence of Schools that they shall be well started in their enlarged work. And, as regards future income, there are many things which may heighten the efficiency of a School which yet cannot be expected from ordinary legal provisions. Endowments, therefore, may be used to provide advantages, which the Schools would not have, if the endowments did not exist.

8. On these grounds the Commissioners have, in many cases, propounded Schemes for the purpose of devoting permanently to Elementary Education sites and buildings now used or adapted for that purpose, and of spending part of the capital of endowments to give substantial aid (more or less, according to local circumstances,) in providing sufficient sites, buildings, and fittings where they do not exist. This method may, as the Commissioners think, be applied very freely in those cases in which endowments are properly devoted to Elementary Education at all.

9. As regards future income, the Commissioners think it best to specify a number of objects beyond the scope of ordinary current expenditure but advantageous to an Elementary School; and to give the Managers complete discretion in the adoption of one or more of such objects. Different objects can thus be selected according to different local circumstances, and so the Commissioners hope to preserve the freedom of local action, which they think essential to the vitality of local institutions. The clause providing for such an application of income would run as follows :—

“The income of this Endowment shall be applied by the Governors in the advancement of the education of boys and girls in one or more of the following ways (that is to say) :—

- (a.) Providing free places or other prizes to be given to meritorious Scholars in the School.
- (b.) Providing Exhibitions for promising Scholars of sufficient amount to induce their parents to keep them at the School somewhat longer than they would otherwise be likely to remain.
- (c.) Providing a Lending Library for the Scholars.
- (d.) Providing Maps for Physical Geography, Drawings, Scientific Apparatus, and the like Articles, being more expensive than could be afforded without the aid of this Endowment.
- (e.) Providing Lectures or Evening Classes in combination with other neighbouring Schools or otherwise.
- (f.) Providing additional Playground accommodation, Gymnastic Apparatus, expenses of Military Drill, or otherwise assisting the games or exercise of the Scholars.
- (g.) Providing aids to Industrial Instruction, such as tools and a Carpenter's shed, field gardens or allotments for boys, or a kitchen or laundry for girls.”

The foregoing objects must be taken as specimens of those most commonly suggesting themselves; the list may be enlarged or contracted, according to circumstances.

10. Another mode, perhaps as beneficial as any, of connecting endowments with Elementary Schools, is the provision of Exhibitions calculated to help the best scholars in obtaining further and higher education. This object may be sometimes effected by adding it to the objects indicated in paragraph 9, sometimes by devoting to it the whole residue, or the whole endowment, and sometimes by means of Schemes not designed for Elementary Schools, but for those of a class just above the Elementary, by giving a preferential right of competition for free places to the pupils of Elementary Schools.

11. Whether any given endowment ought or ought not to be used at all, or ought to be used wholly or partially, for Elementary Education or in connexion with Elementary Schools, is a question which depends on the circumstances of that particular Endowment; on its original destination, its history, its present working, its amount, the character and needs of the people among whom it works, and other such matters, which form the subject of inquiry in each case. Judging however from the experience they have now gained, the Commissioners think that the two courses for the application of this class of endowments which they have above suggested (pars. 9, 10), will be found applicable to most of the small rural Schools, and will be found to exhaust the income of most endowments under £40 per annum, and a large number of those under £60.

12. Endowments now employed in ways generally disapproved and convertible to other uses under Section 30 of the Endowed Schools Act, 1869, may in most cases be used, wholly or partially, in connexion with Public Elementary Schools. By the terms of that section the Commissioners are to have due regard to the educational interests of persons in the same class of life, or resident within the same area as the present recipients of the benefits. And though such an injunction

leaves much latitude of discretion, it seems to suggest that the funds shall, if possible, be applied in the best way to promote the education of the poor who are, for the most part, their recipients, and for whose benefit chiefly the Elementary Schools exist.

13. The other features of Schemes for Endowments of this class are very simple. (*a.*) In cases where it is desired to sink capital in buildings, the Commissioners require that the locality shall on its part contribute a reasonable amount, and that the aggregate shall be sufficient for its purpose. (*b.*) They provide in all cases that the School assisted shall be a Public Elementary School under Section 7 of the Elementary Education Act. This relieves the Scheme from the necessity of containing rules for the conduct of the School, and secures that the School shall be qualified for earning the Parliamentary grant, and thereby gaining the essential guarantee of Inspection. (*c.*) In order to secure further that the School may be able to harmonise with the general system of Elementary Schools, the Schemes provide that the Governors shall have power to adopt any regulations which the Education Department may impose as conditions of a grant. (*d.*) Where a School Board has been formed, the question, whether it should or should not be made the Governing Body of the Endowment, has to be considered. As yet but few School Boards have been formed in rural districts. For the present the Commissioners have proposed Governing Bodies of a simple description, consisting of the parish Clergyman, or principal Clergyman of the district, *ex-officio*, and a few other persons elected by the ratepayers in vestry. (*e.*) They have also proposed in several cases that a School Board, if and when created, shall have the option of becoming the Governing Body. According to their reading of the Elementary Education Act, which however must not be taken as having any authority, such a provision would enable the School Boards to hold the Endowments *upon the trusts of the Scheme*, or to make such arrangements as are authorized by Section 23 of the Elementary Education Act.

14. Such are the general features of Schemes hitherto propounded; and such are likely to be the *prima facie* proposals for other Schemes for dealing with Endowments of this class; but subject, as everything not absolutely fixed by law is subject, to reconsideration and modification in each individual case.





